



INFORMATION BULLETIN No. 127

Maritime Labour Convention, 2006 (MLC 2006)

Guidance and Instructions for Bahamas Recognised Organisations, Bahamas Approved Nautical Inspectors, Ship Owners, Managers, Masters, Seafarers and Duly Authorised Manning Agents

1. Purpose

- 1.1. This Bulletin provides all parties with guidance on the Bahamas implementation of the International Labour Organisation (ILO) Maritime Labour Convention, 2006 (MLC 2006) requirements.
- 1.2. This Bulletin should be read in conjunction with:
 - i. MLC 2006;
 - ii. ILO Resolutions relating to MLC 2006;
 - iii. Bahamas Maritime Authority (BMA) Information Bulletins relating to MLC 2006, seafarers, manning and training;
 - iv. ILO "Guidelines for flag State inspections under MLC 2006",
 - v. ILO "Guidelines for port State control officers carrying out inspections under MLC 2006";
 - vi. Other relevant ILO guidelines relating to labour conditions.
- 1.3. For the purpose of the Bulletin, the definition of "shipowner" shall be as defined in the MLC 2006, i.e.:
 - **"Shipowner** means the owner of the ship or another organization or person, such as the manager, agent or bareboat charterer, who has assumed the responsibility for the operation of the ship from the owner and who, on assuming such responsibility, has agreed to take over the duties and responsibilities imposed on shipowners in accordance with this Convention, regardless of whether any other organization or persons fulfil certain of the duties or responsibilities on behalf of the shipowner."

2. Application and interpretation

2.1 MLC 2006 applies to all seafarers and all ships, whether publicly or privately owned, ordinarily engaged in commercial activities, except as specified below. The Bahamas has determined that the following will not be considered ships for the purpose of application of the requirements of MLC 2006:

- i. Ships that are trading and/or operating exclusively between ports and facilities within The Bahamas;
- ii. Offshore units whose primary service is drilling operations for the exploration, exploitation or production of resources beneath the sea-bed and are not ordinarily engaged in navigation or international voyages;
- iii. Yachts of less than 24 meters in length;
- iv. Yachts in non-commercial use of any size.

2.2. In relation to seafarers, the BMA will be using the guidance in MLC 2006 Resolution VII in order to determine if a person engaged or employed onboard an applicable ship is a seafarer for the purpose of MLC 2006 compliance. Among other factors taken into consideration will be:

- the extent to which a country's national legal and social system provides protection for labour standards comparable to that provided for under MLC 2006;
- if the nature of work is not part of the routine business of the ship;
- although trained and qualified in maritime skills, the persons concerned perform key specialist functions that are not part of the routine business of the ship;
- the work the person performs is occasional and short term, with the principal place of employment being onshore

2.3 All parties should note that at the time of publication of this Bulletin, The Bahamas considers that the following persons are not seafarers for the purpose of MLC 2006 application:

- Port workers, including travelling stevedores;
- Pilots and port officials;
- Ship surveyors and auditors;
- Equipment repair/service technicians and riding crew whose principal place of employment is onshore;
- Guest entertainers who work occasionally and short term onboard with their principal place of employment being onshore.

- 2.4 If the Owner deems that there is any other category of persons who should not be considered seafarers for the purpose of MLC 2006 compliance, an application containing the following should be submitted to the BMA (stcw@bahamasmaritime.com):
- i. The category or capacity of the persons;
 - ii. the duration of the stay on board of the persons concerned;
 - iii. the frequency of periods of work spent on board;
 - iv. the location of the person's principal place of work;
 - v. the purpose of the person's work on board;
 - vi. who is responsible for the labour and social conditions for the persons;
 - vii. whether an agreement is in place for the persons and if the Owner has assessed it to ascertain if it is comparable with MLC 2006.
- 2.5 All parties should note that the non-application of the MLC 2006 requirements does not exclude the affected person from compliance with the training and certification requirements of the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers 1978, as amended (STCW) and or other international requirements if this is required as a result of their assigned shipboard duties.
- 2.6 The Bahamas position on any matters which require interpretation and clarification will continue to be dealt with on a case by case basis and, if required, the resulting decision(s) disseminated in the form of a BMA Information Bulletin.

3 Background

- 3.1 MLC 2006 was adopted by the ILO on 07 February 2006 and will enter into force on 20 August 2013 as all the required ratification criteria of the Convention have been satisfied.
- 3.2 MLC 2006 encompasses, supersedes and builds upon the requirements of a number of existing ILO Conventions. An important difference to other ILO Conventions is that the MLC 2006 has provisions for flag state inspection and certification as well as inspection and enforcement by port States under the principle of "no more favourable treatment" for ships of a non-party State.
- 3.3 MLC 2006 provides an international instrument setting forth a minimum set of requirements governing the working and living conditions for seafarers.

- 3.4 MLC 2006 will require shipowners to demonstrate that the Convention standards are met by their ships.
- 3.5 The Convention has four purposes:
- (i) to lay down, in its Articles and Regulations, a firm set of rights and principles;
 - (ii) to expand on the provisions of the Regulations in the Code, through mandatory requirements and non-mandatory guidance;
 - (iii) to allow, through the Code, a degree of flexibility in the way Member States implement these rights and principles; and
 - (iv) to ensure, through Title 5, that the rights and principles are properly complied with and enforced.
- 3.6 The Convention comprises three different but related parts: the Articles, the Regulations and the Code. The Articles and Regulations set out the core rights and principles and the basic obligations of Member States ratifying the Convention. The Code contains the details for the implementation of the Regulations and comprises Part A (mandatory standards) and Part B (non-mandatory guidelines).
- 3.7 The Regulations and the Code are organized into general areas under five Titles, each of which contains groups of provisions relating to a particular right or principle (or enforcement measure in Title 5), as follows:
- (i) *Title 1 - Minimum requirements for seafarers to work on a ship.* This addresses minimum age, medical certificates, training and qualifications, recruitment and placement.
 - (ii) *Title 2 - Conditions of employment.* This addresses employment agreements, wages, hours of work and rest, leave entitlement, repatriation, compensation in the event of loss of a ship, manning levels, career and skill development, seafarer employment opportunities.
 - (iii) *Title 3 - Accommodation, recreational facilities, food and catering.* This addresses standards for accommodation, recreational facilities, food and catering.
 - (iv) *Title 4 - Health protection, medical care, welfare and social security protection.* This addresses medical care, shipowner's liability, health & safety and accident prevention, access to shore welfare facilities, social security

- (v) *Title 5 - Compliance and enforcement.* This addresses flag State responsibilities, port State responsibilities, labour supply responsibilities.
- 3.8 Guidance on implementation is given in the non-mandatory Part B of the Code. However, having considered the relevant guidelines, a Member State may decide to provide for different arrangements to give effect to the standard in Part A.
- 3.9 Certification is mandatory for commercial ships of 500 gross tons and above. Compliance for these ships is evidenced by a Maritime Labour Certificate, to which is annexed a Declaration of Maritime Labour Compliance (DMLC).
- 3.10 The flag State requirements will be referenced in the DMLC Part I and the format of the Bahamas DMLC Part I is provided in Appendix I. The shipowner response to flag State requirements is to be set out in the DMLC Part II which should be in a format as outlined in Appendix II.
- 3.11 Port State control inspections will focus only on the relevant requirements of the Convention (Articles, Regulations and the Standards in Part A).

4 Bahamas legislation and requirements

- 4.1 The drafting of the Bahamas Merchant Shipping (Maritime Labour Convention) Regulations 2012 has been completed and is at the final stage of the legislative process. The BMA does not envision that there will be any substantive changes to the text and accordingly a copy of the legislation will be available to enable owners to progress with compliance with MLC 2006.

- 4.2 The recommendatory advice to Administrations in Part B of the Code is for guidance and are not mandatory requirements to be applied by the shipowner, unless otherwise stated or referred to in Bahamas legislation or BMA Information Bulletins. However the guidance may be taken into account by a shipowner when implementing the provisions of MLC 2006.

5 Inspection and certification

- 5.1 The BMA has appointed its existing Recognised Organisations (ROs), as listed in BMA Information Bulletin No.3, as Recognised Organisations for the purpose of MLC 2006 inspection and certification. ILO "*Guidelines for Flag State Inspections*" are to be used in order to apply a common standard for inspection and certification.
- 5.2 Owners are encouraged to use the guidelines as a part of their preparation for inspection. The guidelines are available to download from the ILO website (http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---normes/documents/publication/wcms_101788.pdf).
- 5.3 The RO carrying out the MLC 2006 inspection need not be the Classification Society for the ship, nor the issuing body of the Safety Management Certificate or International Ship Security Certificate.
- 5.4 MLC 2006 inspection and certification is totally independent of any other statutory survey, audit or inspection.
- 5.5 All applicable ships should be MLC 2006 compliant and certificated by the date of entry into force and shipowners are strongly encouraged to undertake voluntary certification of their ships prior to entry into force of the Convention.
- 5.6 Ships meeting the requirements of MLC 2006 prior to entry into force of the Convention shall be issued with a Statement of Compliance with the Maritime Labour Convention following satisfactory inspection.
- 5.7 On entry into force of the Convention, Statements of Compliance issued during the voluntary period shall be replaced directly with a Maritime Labour Certificate, without survey, with the expiry date being no later than that on the existing Statement of Compliance.

5.8 The Bahamas Maritime Authority will issue the DMLC Part I to all applicable ships. The shipowner shall apply to the BMA for the DMLC Part I by providing the following information in writing:

- Name of ship
- IMO Number
- Name and contact details of shipowner
- Details of any requested exemption or equivalencies with reference to the applicable MLC regulation, reason/justification and any supporting documentation
- Initial Fee of US\$150. Owners should note that an additional fee of US\$150 per hour will be charged for the review of any requested exemption or equivalent.

5.10 A new DMLC Part I will be required where there is a change of the ship's particulars as recorded on the DMLC Part I or any changes to the exemptions or equivalent arrangements.

5.11 A revised DMLC Part II is required where there is a change of shipowner or measures to ensure compliance with the provisions of the DMLC Part I.

6 Equivalency and exemptions

6.1 Any applications for the acceptance of an equivalency or exemption from MLC 2006 requirements shall be submitted at the time of requesting the DMLC Part I as outlined in Section 5.8 above.

6.2 If, subsequent to the issuance of the DMLC Part I, the shipowner requires consideration of an equivalency or exemption, a new application for DMLC Part I will be required and if the application is granted, an amended DMLC Part I, DMLC Part II and inspection for a Maritime Labour Certificate will be required.

7 Revision History

Rev.0 (03 September 2010) – First issue

Rev.1 (31 August 2012) – Complete revision

Appendix I: Format of DMLC Part I

Maritime Labour Convention, 2006

Declaration of Maritime Labour Compliance – Part I

*(Note: This Declaration must be attached to the ship's Maritime Labour Certificate)*Issued under the authority of **The Bahamas Maritime Authority***in accordance with section 7 of The Merchant Shipping (Maritime Labour Convention) Regulation 2012*

With respect to the provisions of the Maritime Labour Convention, 2006, the following referenced ship:

Name of Ship	IMO Number	Gross Tonnage

is maintained in accordance with Standard A5.1.3 of the Convention.

The undersigned declares, on behalf of the abovementioned competent authority, that:

(a) the provisions of the Maritime Labour Convention are fully embodied in the national requirements referred to below;

(b) these national requirements are contained in the national provisions referenced below; explanations concerning the content of those provisions are provided where necessary;

(c) the details of any substantial equivalencies under Article VI, paragraphs 3 and 4, are provided <under the corresponding national requirement listed below> <in the section provided for this purpose below> *(strike out the statement which is not applicable)*;

(d) any exemptions granted by the competent authority in accordance with Title 3 are clearly indicated in the section provided for this purpose below; and

(e) any ship-type specific requirements under national legislation are also referenced under the requirements concerned.

1. Minimum age (Regulation 1.1)

Regulation 11 of Merchant Shipping (Maritime Labour Convention) Regulations 2012

BMA Information Bulletin no. 140

2. Medical certification (Regulation 1.2)

Regulation 12 of Merchant Shipping (Maritime Labour Convention) Regulations 2012

BMA Information Bulletin no. 103

3. Qualifications of seafarers (Regulation 1.3)

Regulation 13 of Merchant Shipping (Maritime Labour Convention) Regulations 2012

Merchant Shipping (Training, Certification, Watchkeeping and Manning) Regulations 2011

BMA Information Bulletin nos. 104, 105, 106, 108, 118, 129, 130, 135, 146

4. Seafarers' employment agreements (Regulation 2.1)

Regulations 15, 16, 18 and 19 of Merchant Shipping (Maritime Labour Convention) Regulations 2012

BMA Information Bulletin no. 142

5. Use of any licensed or certified or regulated private recruitment and placement service (Regulation 1.4)

Regulation 14 of Merchant Shipping (Maritime Labour Convention) Regulations 2012

BMA Information Bulletin no. 147

6. Hours of work or rest (Regulation 2.3)

Regulation 17 of Merchant Shipping (Maritime Labour Convention) Regulations 2012

Regulations 28, 29 Merchant Shipping (Training, Certification, Watchkeeping and Manning) Regulations 2011

BMA Information Bulletin no. 144

7. Manning levels for the ship (Regulation 2.7)

Regulation 21 of Merchant Shipping (Maritime Labour Convention) Regulations 2012

Regulations 22, 23, 24 of Merchant Shipping (Training, Certification, Watchkeeping and Manning) Regulations 2011

BMA Information Bulletin nos. 105 and 115

8. Accommodation (Regulation 3.1)

Regulation 22 of Merchant Shipping (Maritime Labour Convention) Regulations 2012

Merchant Shipping (Crew Accommodation) Regulations 1978

BMA Information Bulletin no. 139

9. On-board recreational facilities (Regulation 3.1)

Regulation 22 of Merchant Shipping (Maritime Labour Convention) Regulations 2012

BMA Information Bulletin no. 149

10. Food and catering (Regulation 3.2)

Regulation 23 of Merchant Shipping (Maritime Labour Convention) Regulations 2012

BMA Information Bulletin nos. 139, 146

11. Health and safety and accident prevention (Regulation 4.3)

Regulation 26 of Merchant Shipping (Maritime Labour Convention) Regulations 2012

BMA Information Bulletin no. 145

12. On-board medical care (Regulation 4.1)

Regulation 24 of Merchant Shipping (Maritime Labour Convention) Regulations 2012

BMA Information Bulletin no. 148

13. On-board complaint procedures (Regulation 5.1.5)

Regulation 30 of Merchant Shipping (Maritime Labour Convention) Regulations 2012

BMA Information Bulletin no. 141

14. Payment of wages (Regulation 2.2)

Regulation 16 of Merchant Shipping (Maritime Labour Convention) Regulations 2012

BMA Information Bulletin no. 142

Stamp of the authority

Signature:

Name:

Title:

Place:

Date:

Substantial equivalencies

No equivalency has been granted.

The following substantial equivalencies, as provided under Article VI, paragraphs 3 and 4, of the Convention, except where stated above, are noted:

Substantial equivalencies:
See Annex

Stamp of the authority

Signature:
Name:
Title:
Place:
Date:

Exemptions

No exemption has been granted.

The following exemptions granted by the competent authority as provided in Title 3 of the Convention are noted:

Exemptions:
See Annex

Stamp of the authority

Signature:
Name:
Title:
Place:
Date:

ANNEX I: Details of Substantive Equivalencies/Exemptions

Appendix I: Format of DMLC Part II

Maritime Labour Convention, 2006

Declaration of Maritime Labour Compliance – Part II

Measures adopted to ensure ongoing compliance between inspections

The following measures have been drawn up by the shipowner, named in the Maritime Labour Certificate to which this Declaration is attached, to ensure ongoing compliance between inspections:

(State below the measures drawn up to ensure compliance with each of the items in Part I)

- | | |
|---|--------------------------|
| 1. Minimum age (Regulation 1.1) | <input type="checkbox"/> |
| | |
| 2. Medical certification (Regulation 1.2) | <input type="checkbox"/> |
| | |
| 3. Qualifications of seafarers (Regulation 1.3) | <input type="checkbox"/> |
| | |
| 4. Seafarers' employment agreements (Regulation 2.1) | <input type="checkbox"/> |
| | |
| 5. Use of any licensed or certified or regulated private recruitment and placement service (Regulation 1.4) | <input type="checkbox"/> |
| | |
| 6. Hours of work or rest (Regulation 2.3) | <input type="checkbox"/> |
| | |
| 7. Manning levels for the ship (Regulation 2.7) | <input type="checkbox"/> |
| | |
| 8. Accommodation (Regulation 3.1) | <input type="checkbox"/> |
| | |
| 9. On-board recreational facilities (Regulation 3.1) | <input type="checkbox"/> |
| | |
| 10. Food and catering (Regulation 3.2) | <input type="checkbox"/> |
| | |
| 11. Health and safety and accident prevention (Regulation 4.3) | <input type="checkbox"/> |
| | |
| 12. On-board medical care (Regulation 4.1) | <input type="checkbox"/> |
| | |
| 13. On-board complaint procedures (Regulation 5.1.5) | <input type="checkbox"/> |
| | |
| 14. Payment of wages (Regulation 2.2) | <input type="checkbox"/> |

I hereby certify that the above measures have been drawn up to ensure ongoing compliance, between inspections, with the requirements listed in Part I.

Name of shipowner¹:
.....
Company address:
.....
Name of the authorized signatory:
.....
Title:
Signature of the authorized signatory:
.....
Date:
(Stamp or seal of the shipowner¹)

The above measures have been reviewed by (*insert name of competent authority or duly recognized organization*) and, following inspection of the ship, have been determined as meeting the purposes set out under Standard A5.1.3, paragraph 10(b), regarding measures to ensure initial and ongoing compliance with the requirements set out in Part I of this Declaration.

Name:
Title:
Address:
.....
Signature:
Place:
Date:
(Seal or stamp of the authority, as appropriate)

¹ Shipowner means the owner of the ship or another organization or person, such as the manager, agent or bareboat charterer, who has assumed the responsibility for the operation of the ship from the owner and who, on assuming such responsibility, has agreed to take over the duties and responsibilities imposed on shipowners in accordance with this Convention, regardless of whether any other organizations or persons fulfil certain of the duties or responsibilities on behalf of the shipowner. See Article II(1)(j) of the Convention.
